

CHILD PROTECTIVE SERVICES

APPEALS AND FAIR HEARINGS



AN EQUAL OPPORTUNITY AGENCY

YOUR RIGHT TO APPEAL

Section 63.2-1526 of *the Code of Virginia* specifies that any individual who is found to have committed child abuse and/or neglect has the right to appeal.

WHAT IS AN APPEAL?

An appeal is your written request for a review and amendment to your Child Protective Services (CPS) record and the entry of your name in the Child Abuse and Neglect Central Registry.

WHAT CAN BE APPEALED?

THE FOLLOWING CHILD PROTECTIVE SERVICES (CPS) FINDINGS MAY BE APPEALED:

FOUNDED:

LEVEL ONE: real or threatened injuries/conditions that resulted in or were likely to have resulted in serious harm to a child.

LEVEL TWO: real or threatened injuries/conditions that resulted in or were likely to have resulted in moderate harm to a child.

LEVEL THREE: real or threatened injuries/conditions that resulted in minimal harm to a child.

THE FOLLOWING INFORMATION CONTAINED IN THE CPS RECORD MAY BE APPEALED:

- inaccurate information;
- irrelevant information; and/or
- findings related to the allegation of abuse or neglect.

WHAT ARE THE LEVELS OF APPEAL?

There are three levels of appeal:

- informal conference with the local social services department;
- administrative hearing before a state hearing officer; and
- judicial review by the circuit court.

HOW DO I REQUEST A LOCAL CONFERENCE?

Subsequent to the CPS investigation, you will receive a written notice from the local social services department that includes:

- the CPS finding(s) and level(s);
- the length of time your name will be listed in the Child Abuse and Neglect Central Registry;

- your right to review the information used by the local social services department in making a finding(s), except for information protected by law or regulation; and
- your right to appeal the local social services department's finding(s).

If you are dissatisfied with the CPS finding(s) and want your record amended, you or your legal representative must complete the following step:

- within 30 calendar days after receiving the notice of findings, write to the local social services department and request an informal, local conference.
- The purpose of the local conference is to:
 - meet informally to discuss your concerns;
 - review the CPS record to understand the basis for the local social services department's findings; and
 - present testimony of witnesses, documents, arguments, submissions of proof, or any additional information you want to have considered by the local social services department.

HOW DO I REQUEST AN ADMINISTRATIVE HEARING?

If, after you request a local conference, the social services department:

- does not favorably amend your records; or
- fails to send you a written decision within 45 calendar days of your written request for an amendment,

you or your authorized representative may, within 30 calendar days thereafter, write the Commissioner of the Virginia Department of Social Services to request an administrative hearing.

To request an administrative hearing, write to:

Commissioner
Virginia Department of Social Services
7 N. Eighth Street
Richmond, VA 23219

WHAT CAN I EXPECT ONCE I HAVE REQUESTED AN ADMINISTRATIVE HEARING?

The Virginia Department of Social Services will send a written acknowledgement of your request for an administrative hearing.

If your request for a hearing is valid, you will receive a letter advising you of the time and place of your hearing and your right

to review your Child Protective Services record at the local social services department.

At the hearing you may submit oral and written testimony and other documents. You may depose a non-party at your own expense, with the exception of certain individuals excluded by law, and submit depositions at the hearing. You may request, with good cause shown, that the hearing officer issue subpoenas for documents and/or witnesses except for those witnesses excluded by law.

At the hearing you will be asked to state your objection to the finding reached by the local social services department and summarize the evidence supporting your position, including any further relevant evidence that you think is important. You may choose to be represented by an attorney at the hearing.

HOW DO I REQUEST A JUDICIAL REVIEW?

Once the administrative hearing has been conducted, you will receive a written decision of the hearing officer's findings. Your right to request a judicial review is indicated in the decision. If you are dissatisfied with the hearing officer's decision, you may seek further review by the appropriate Circuit Court in accordance with Article 4 (Section 9-6.14:15 et seq.) of the *Administrative Process Act*.